

## Maine Revised Statutes

### Title 38: WATERS AND NAVIGATION

#### Chapter 5: GENERAL PROVISIONS RELATING TO RIVERS AND STREAMS

##### §902. CONSULTATION PROCESS

**1. Consultation required.** Within 180 days of filing a petition pursuant to section 901, a dam owner shall consult with the persons and entities listed in subsection 3 to determine whether any of them wish to assume ownership of the dam. During consultation with each person or group of persons, the owner shall explain the process set forth in this article and shall inform the person or group that the department may issue an order requiring release of the water impounded by the dam if a new owner is not located. A dam owner may meet the obligation to consult with property owners by holding a public meeting and consulting with the persons who appear at that meeting, as long as notice has been sent to each property owner as required in section 901.

[ 1995, c. 630, §3 (NEW) .]

**1-A. Extension of consultation period.** The consultation period under subsection 1 must be extended for an additional 180 days if:

The consultation period under subsection 1 may not be extended for more than 180 days regardless of the number of applications for extension under this subsection.

A. A municipality in which the dam or impoundment is located applies to the department for an extension and demonstrates that the municipality needs additional consultation time to facilitate an agreement for municipal ownership of the dam; or [1997, c. 789, §1 (NEW); 1997, c. 789, §5 (AFF) .]

B. The dam owner applies to the department for an extension. [1997, c. 789, §1 (NEW); 1997, c. 789, §5 (AFF) .]

[ 2013, c. 2, §48 (COR) .]

**2. Timing of consultation.** Consultation prior to the filing of a petition meets the requirements of subsection 1 only if the dam owner, during the consultation, disclosed an intent to file a petition under this article and provided the information required in subsection 1.

[ 1995, c. 630, §3 (NEW) .]

**3. Parties to consultation.** The following persons must be consulted as provided in subsection 1:

A. Individuals and groups of persons, such as lake associations, who own property abutting the dam site, the water impounded by the dam or the waterway immediately downstream from the dam; [1995, c. 630, §3 (NEW) .]

B. The Commissioner of Inland Fisheries and Wildlife, the Commissioner of Agriculture, Conservation and Forestry and the Director of the Maine Emergency Management Agency; [1995, c. 630, §3 (NEW); 2011, c. 657, Pt. W, §6 (REV) .]

C. The municipal officers of any municipality and the county commissioners of any unorganized area in which the dam or impoundment is located; and [1995, c. 630, §3 (NEW) .]

D. Representatives of the tribal governments of Indian tribes or nations in whose territory a dam or impoundment is located. [1995, c. 630, §3 (NEW) .]

[ 1995, c. 630, §3 (NEW); 2011, c. 657, Pt. W, §6 (REV) .]

**4. Report on notice compliance.** The dam owner shall file a report with the department within 180 days of filing a petition that includes:

A. Evidence that the owner complied with the notice requirements set forth in section 901; and [1997, c. 789, §2 (AMD); 1997, c. 789, §5 (AFF).]

B. Names and addresses of persons notified under section 901. [1997, c. 789, §2 (AMD); 1997, c. 789, §5 (AFF).]

C. [1997, c. 789, §5 (AFF); 1997, c. 789, §2 (RP).]

[ 1997, c. 789, §2 (AMD); 1997, c. 789, §5 (AFF) .]

**4-A. Report on consultation process.** The dam owner shall file a report with the department within 180 days of filing a petition or before the conclusion of an extension to the consultation period granted pursuant to subsection 1-A that includes:

A. Names and addresses of parties consulted in accordance with this section; and [1997, c. 789, §3 (NEW); 1997, c. 789, §5 (AFF).]

B. The results of the consultations and whether a new owner has been located. [1997, c. 789, §3 (NEW); 1997, c. 789, §5 (AFF).]

[ 1997, c. 2, §64 (COR) .]

**5. Evaluation of report.** If the department determines, after reviewing the report, that the dam owner has not complied with the requirements of section 901 or this section, the department shall allow the dam owner a reasonable period of time to correct the deficiency. The department shall reject the petition if:

A. The deficiency has not been corrected within the specified time period; or [1995, c. 630, §3 (NEW) .]

B. The department finds that a person was willing to assume ownership of the dam but the dam owner refused to transfer the property because that person refused to pay compensation, other than costs, for the transfer. [1995, c. 630, §3 (NEW) .]

[ 1995, c. 630, §3 (NEW) .]

#### SECTION HISTORY

1995, c. 630, §3 (NEW). RR 1997, c. 2, §64 (COR). 1997, c. 789, §§1-3 (AMD). 1997, c. 789, §5 (AFF). 2011, c. 657, Pt. W, §6 (REV). RR 2013, c. 2, §48 (COR).

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